



CITY OF HAYWARD AGENDA REPORT

Meeting Date: 12/19/02

Agenda Item: 1

TO: Planning Commission

FROM: Norman Weisbrod, Consulting Project Planner

SUBJECT: **Continuation of Administrative Use Permit Application No. PL-2002-0440 – Jose L. and Olivia Rayas (Applicant/Owner): Request to Keep and Fly Pigeons**

The Property is Located at 25191 Kay Avenue in a RS (Single-Family Residential) District

RECOMMENDATION:

Staff recommends that the Planning Commission adopt the attached findings and conditions of approval.

BACKGROUND

The proposal was approved by the Planning Commission at its meeting on November 7, 2002. The Commission asked staff to come back with findings for approval and conditions of approval.

ENVIRONMENTAL REVIEW

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 In-fill Development Projects.

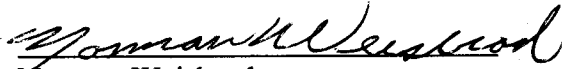
PUBLIC NOTICE

On December 9, 2002, a Notice of Public Hearing was mailed to property owners and residents within 300 feet of the project site.

CONCLUSION

The conditions are intended to reduce the impact of the pigeons on surrounding properties. They include limitations on the number of pigeons that can be kept on the property (100) and the number that can be released for flight at any one time (50). The applicant agrees to these limitations.

Prepared by:



Norman Weisbrod
Consulting Project Planner

Recommended by:



for Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Findings for Approval
- B. Conditions of Approval
- C. Staff Report for November 7, 2002
- D. Minutes of Planning Commission Meeting of November 7, 2002

FINDINGS FOR APPROVAL

Administrative Use Permit No. P1-2002-0440

25191 Kay Avenue

Jose L. and Olivia Rayas (Applicant/Owner)

1. The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 Existing Facilities.
2. The proposed use is desirable for the public convenience or welfare in that the breeding and flying of pigeons provides companionship and recreation for the applicant and her family. The pigeons are trained, fed and cared for in the most humane and hygienic conditions.
3. The proposed use will not impair the character and integrity of the zoning district and surrounding area in that the keeping and flying of pigeons, as conditioned, will not result in unusual noise, odors or droppings in the surrounding residential neighborhood.
4. The proposed use will not be detrimental to the public health, safety, or general welfare in that the pigeons will be kept in a clean and sanitary environment at all times and the pigeons will not be fed prior to flying so as to reduce or eliminate droppings while flying over surrounding properties.
5. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved. The purpose of the RS Single-Family Residential District is to promote and encourage a suitable environment for family life. The keeping of household pets is a common activity in the residential neighborhoods in Hayward. The breeding and flying of homing is a family activity similar to keeping a household pet.

**CITY OF HAYWARD
PLANING DIVISION
ADMINISTRATIVE USE PERMIT**

December 5, 2002

ADMINISTRATIVE USE PERMIT APPLICATION NO. PL-2002-0440: Jose L. and Olivia Rayas (Applicant/Owner) – Request to Keep and Fly Homing Pigeons.

The project is location is 25191 Kay Avenue (APN 442-0045-089-01), in an RS (Single-Family Residential) District

CONDITIONS OF APPROVAL

1. Administrative Use Permit Application No. 02-0440, to allow the keeping, breeding and flying of homing pigeons, is approved by the Planning Commission on December 5, 2002, subject to the conditions of approval and the plan labeled Exhibit "A."
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claims costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. Violation of these conditions is cause for revocation of the administrative use permit after a public hearing before the duly authorized review body.
4. If it comes to the attention of the Planning Director that there are problems occurring as a result of the keeping, breeding and flying of homing pigeons, the Director may call this administrative use permit application up to the Planning Commission for consideration of imposing additional conditions or restrictions or revocation.
5. The applicant shall not keep more than 100 pigeons in the loft at any one time.
6. Not more than 50 pigeons at a time may be released twice a day for flight between the hours of 8 a.m. and 8 p.m. only.
7. Whistling, clapping or other noise producing devices shall not be used to attract the pigeons back to their loft.
8. The pigeon cages shall be cleaned on a daily basis between the hours of 8 a.m. and 8 p.m. only.
9. The litter from cleaning the cages shall be kept in tightly sealed bags for removal from the site or used for soil enrichment.

10. All food for the pigeons shall be kept in rodent-proof tightly-enclosed containers at all times.
11. The exterior of the pigeon loft shall be maintained in an attractive condition at all times.



CITY OF HAYWARD

AGENDA REPORT

Meeting Date: 11/7/02

Agenda Item: 1

TO: Planning Commission

FROM: Norman Weisbrod, Consulting Project Planner

SUBJECT: **Administrative Use Permit Application No. PL-2002-0440** – Jose L. and Olivia Rayas (Applicant/Owner): Request to Keep and Fly Pigeons

The Property is Located at 25191 Kay Avenue in a RS (Single-Family Residential) District

RECOMMENDATION:

Staff recommends that the Planning Commission find that the project is categorically exempt from environmental review and deny the application subject to the attached findings.

BACKGROUND:

For 10 years, the applicant has been raising and racing homing pigeons at their home on Kay Avenue. Recently, Community Preservation staff received a complaint regarding this use. The homeowner was informed that in order to keep the pigeons, approval of an Administrative Use Permit would be required for the keeping of livestock in the RS (Single-Family Residential) District.

The applicant's property is typical of others in the area. It is 55 feet wide and 91 feet deep with an area of 5005 square feet. It is developed with a single-story three-bedroom and two-bath home with an attached garage. The pigeon loft is located in the rear yard 3 feet from the rear property line and just over 8 feet from the nearest side property line, which is in compliance with the setback requirements of the Zoning Ordinance. The loft is 8 feet by 15 feet and 8 feet high. Since it is not over 120 square feet in area, it is exempt from a building permit. The front of the loft is chicken wire and the sides and rear are solid wood. It is painted white with green trim and has a gable roof with composition shingles. It appears to be very well maintained.

Up to 100 pigeons are kept in the loft. They are let out twice a day in the morning and late afternoon to fly and are out between ½ and 1 hour. The pigeons are not fed for several hours before being let out to fly to encourage them to return and to reduce any droppings they may leave on adjoining properties. Some of the pigeons are also periodically taken out of the area for longer flights back to the loft.

The only other use permit application regarding the keeping and raising of pigeons was in 1992. It was approved under appeal and pigeons were kept in the loft at all times and not released for free flight. In this case the pigeons will be released on a daily basis for free flight. Even though they will not be fed for several hours before they are released, there is no guarantee that there will be no droppings from the birds during flight. This can be a detriment to surrounding properties and was the primary claim raised in responses staff received from the neighbors. The other primary concern of the neighbors is the large number of pigeons housed. Staff believes that the level of this activity associated with the pigeons is out of character with its single-family neighborhood setting.

ENVIRONMENTAL REVIEW

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 Existing Facilities.

PUBLIC NOTICE

On July 26, 2002, a Notice regarding this Administrative Use Permit was mailed to property owners and residents within 300 feet of the project site. Staff received the following responses from the notice:

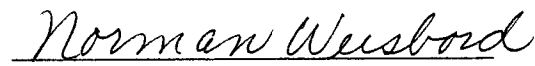
- A petition in favor of the applicant being allowed to keep and fly pigeons. The petition states that they do not perceive any bad odor or loud noise from the loft and do not have any problems with droppings from the pigeons. The petition has 13 signatures representing 8 separate properties.
- Two phone calls from residents opposed to the pigeons. They complain of droppings on the roofs of their houses and cars, and noise from whistles and claps when the owners are training the birds. They would have no problem if there were only three pigeons.
- A phone call from a resident at the rear of the applicant's home stating the pigeons are no problem and the property owner keeps the area very clean.
- An e-mail letter from a representative of the Southgate Area Homeowners Association stating that the Board voted to oppose the request for the keeping, breeding, maintenance and flying of pigeons. The letter states that the birds carry disease, lice and leave droppings everywhere.

The applicant submitted a letter from the City of Hope stating that over a 10 year period, California Racing Pigeon Clubs have raised over \$500,000 for City of Hope through the "Fly for Hope" program. It also states that birds are still employed in remote areas to fly blood samples and messages.


CONCLUSION

The typical administrative use permit application for the keeping of livestock is for animals that are maintained entirely within the confines of the applicant's property. In this case the pigeons are allowed to fly throughout the surrounding neighborhood with no control where they may leave droppings or land. The surrounding residents have no control over when the pigeons will be flying over their property. The keeping of pigeons could also result in bad odor or loud noise. Staff cannot recommend approval of this administrative use permit unless the pigeons are kept caged at all times. Should the Planning Commission wish to approve this project, staff will have to return to the Commission with the proper findings and conditions of approval.

Prepared by:

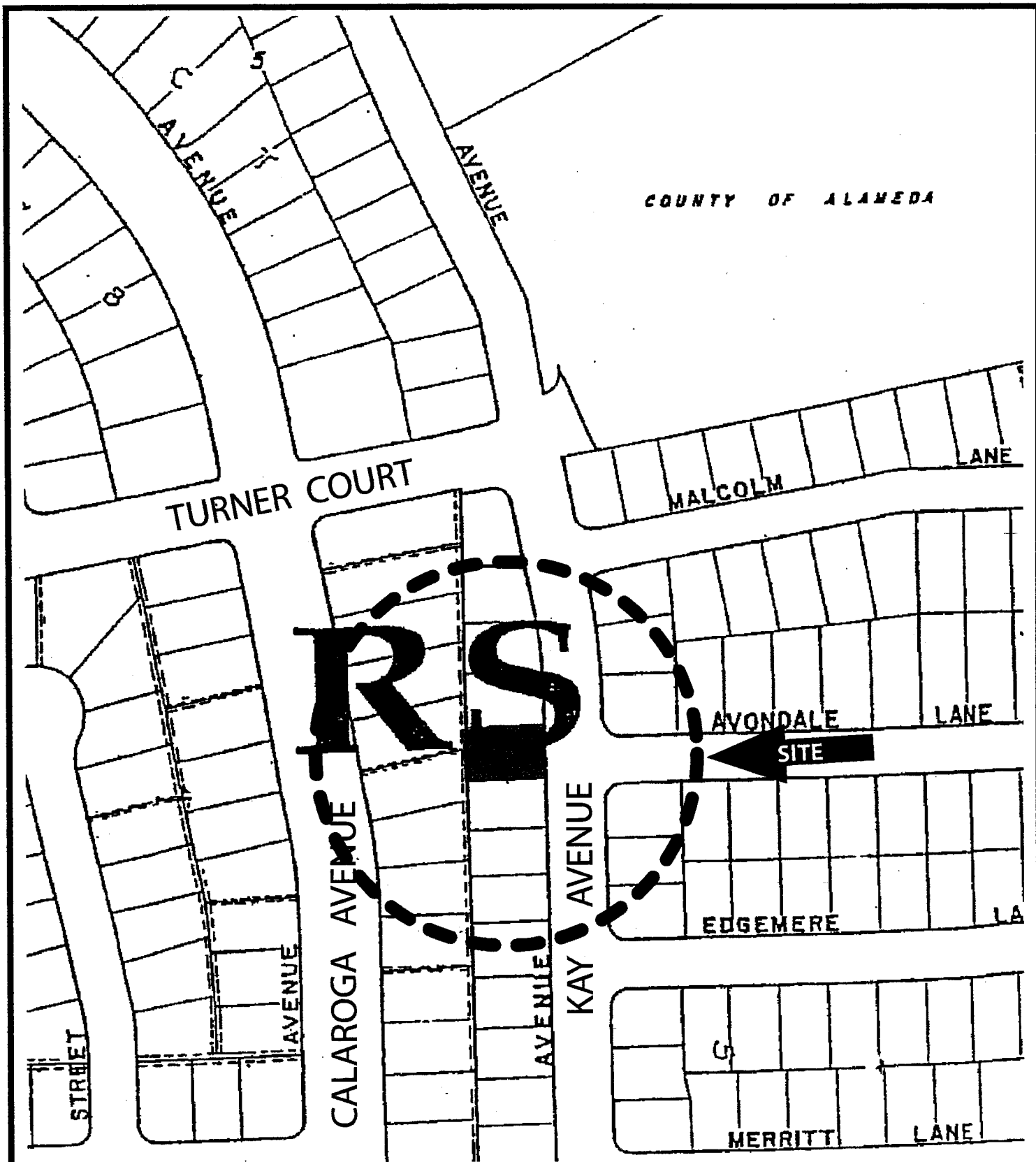

Norman Weisbrod
Consulting Project Planner

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Site Plan
- C. Findings for Denial
- D. Applicant's Supporting Material



Area & Zoning Map

PL-2002-0440 AUP

Address: 25191 Kay Avenue

Applicant: Jose L & Olivia Rayas

Owner: Jose L & Olivia Rayas

RS-Single-Family Residential,RSB4,RSB6

ITE INFORMATION

OWNER JOSE LUIS & OLMA RAYAS
25191 KAY AVENUE
HAYWARD, CA
(510) 782-5018

APN 442-0060-153-00
ZONE RES. SINGLE FAMILY
LOT SIZE 5005 SF

SETBACKS FOR NEW DEVELOPMENT
FRONT 20'
SIDE 5'-6"
REAR 20'

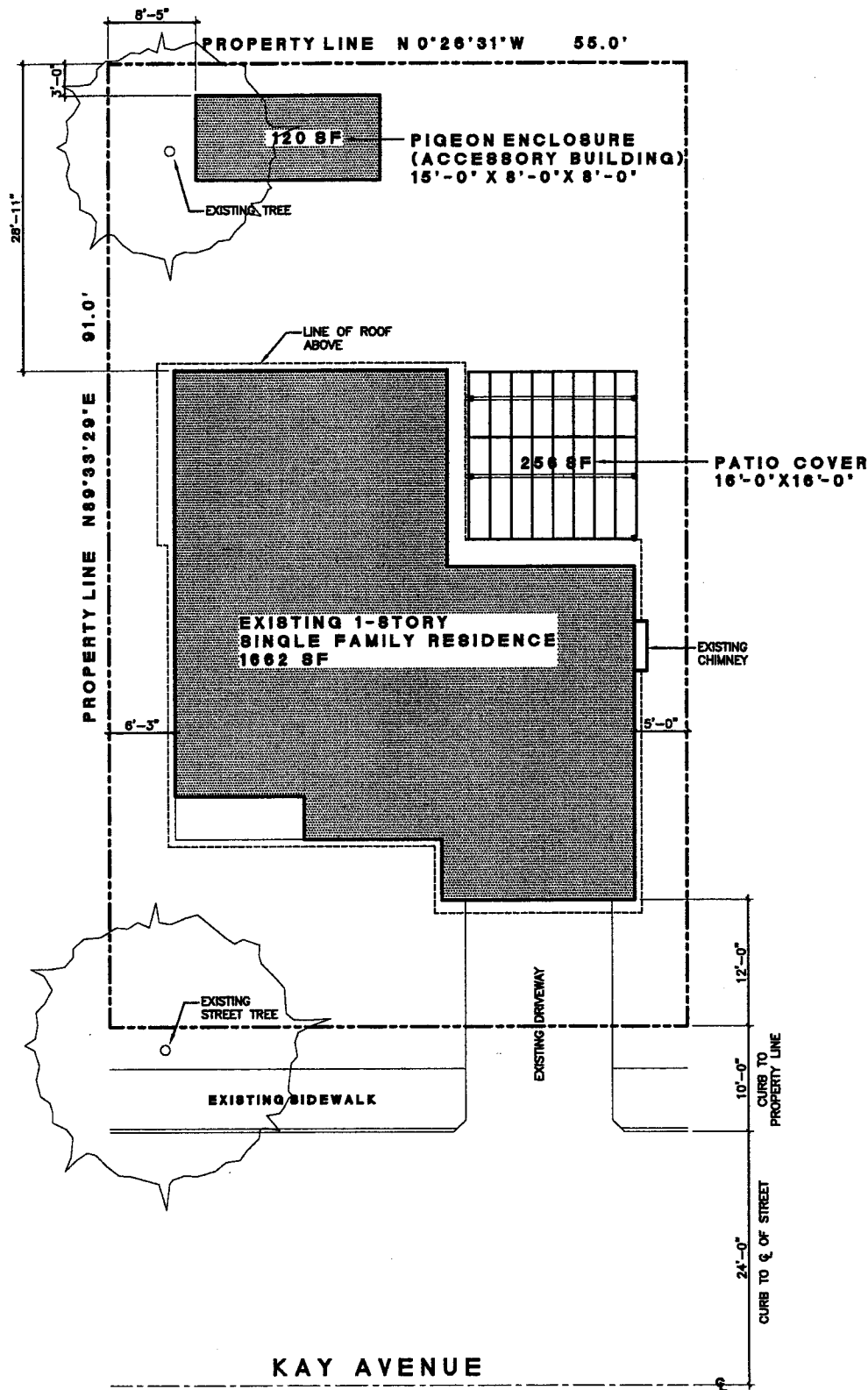
ALLOWED SETBACK ENCROACHMENTS
2' MAX. INTO SIDE YARDS FOR OPEN OR COVERED PORCHES
*PER SECT. 10-1.245(d)(1) OF CITY OF HAYWARD ZONING ORDINANCE

SETBACKS FOR DETACHED ACCESSORY STRUCTURES
FROM PRIM. BLDG. 5'
SIDE 3"
REAR 3"
*PER SECT. 10-1.245(e)(6) OF CITY OF HAYWARD ZONING ORDINANCE

MAX. AREA ALLOWED FOR ACCESSORY BLDG. 831 SF (50% OF PRIMARY STRUCTURE)

AREA PROPOSED FOR ACCESSORY BLDG. 120 SF

HEIGHT LIMIT FOR ACCESSORY BLDG. 14'
PROPOSED HEIGHT 8'



SITE PLAN

SCALE: 1/16"=1'-0"

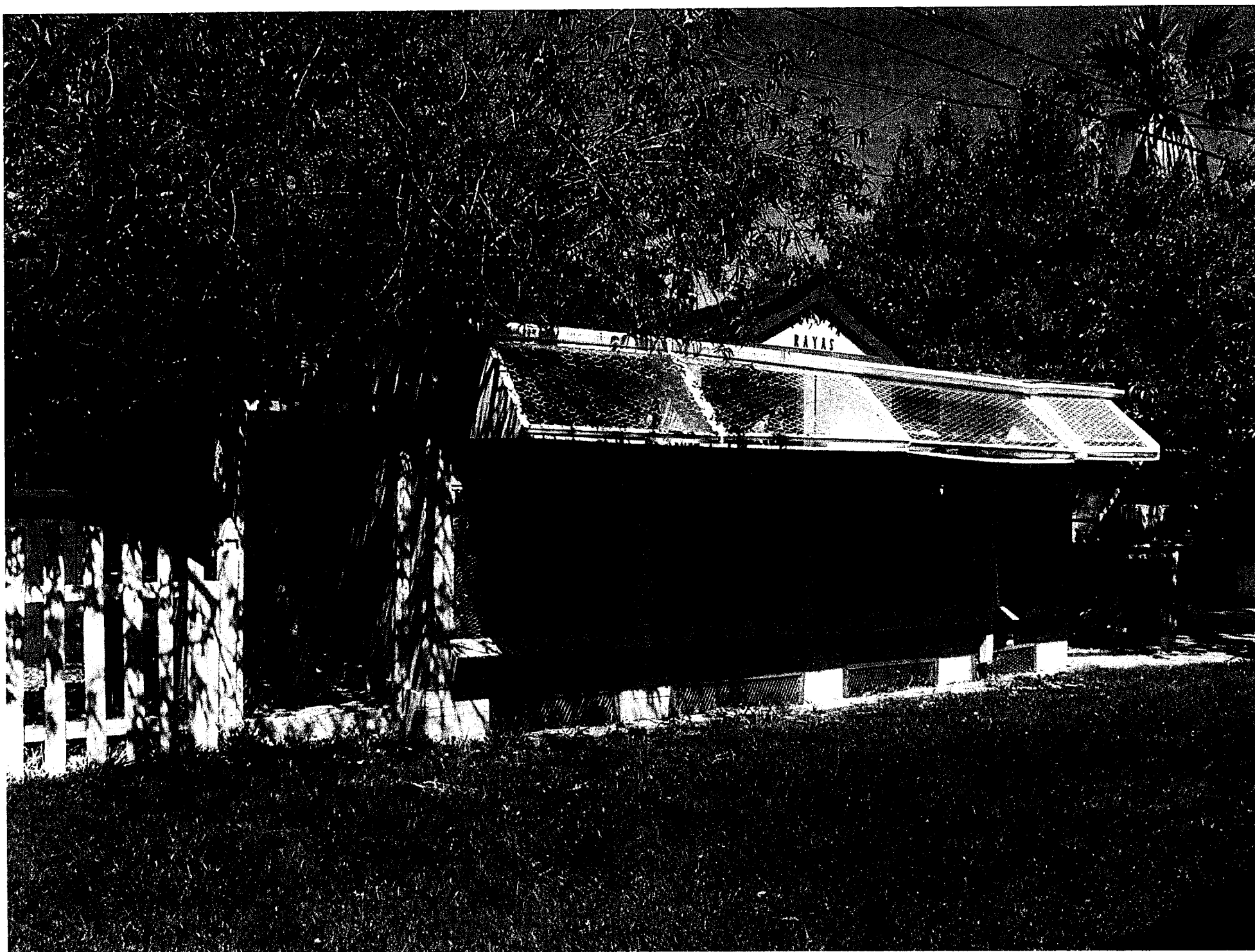
RECEIVED

JUL 18 2002

ATTACHMENT B

Rayas Residence
25191 Kay Avenue
Hayward, CA

DATE	07/10/2002
SCALE	1/16"=1'-0"
DRAWN BY	F. Garcia
SHEET	1
OF	1 SHEETS



FINDINGS FOR DENIAL

Administrative Use Permit No. PI-2002-0440

25191 Kay Avenue

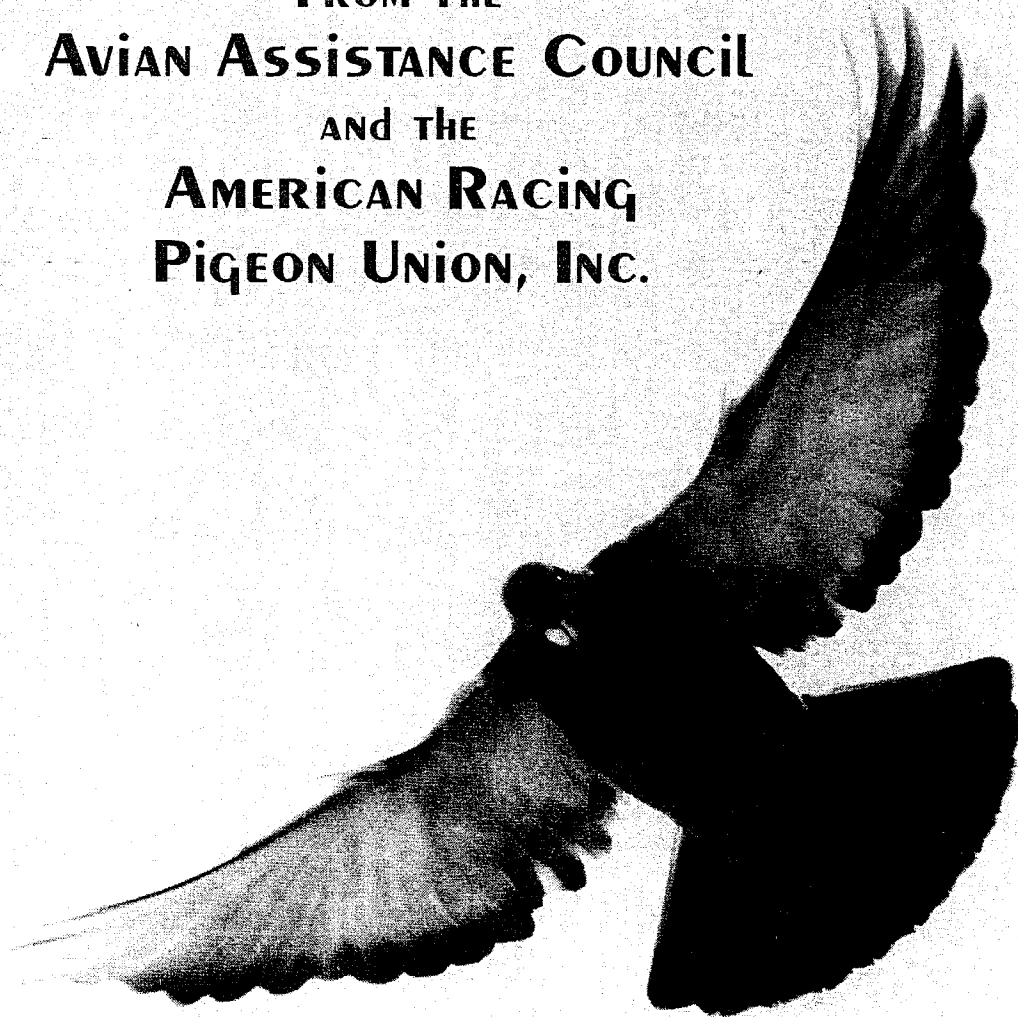
Jose L. and Olivia Rayas (Applicant/Owner)

1. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 Existing Facilities.
2. The proposed use is not desirable for the public convenience or welfare in that the keeping of pigeons could lead to odors if not kept in a sanitary condition at all times and the flying of pigeons in the neighborhood could result in droppings on neighboring properties and cars.
3. The proposed use will impair the character and integrity of the zoning district and surrounding area in that the keeping and flying of pigeons may result in odors and droppings in the surrounding residential neighborhood.
4. The proposed use will be detrimental to the public health, safety, or general welfare in that the pigeons flying over the surrounding residential neighborhood will result in droppings on surrounding properties and vehicles travel through or parking in the surrounding area.
5. The proposed use is not in harmony with applicable City policies and the intent and purpose of the zoning district involved. The purpose of the RS Single-Family Residential District is to promote and encourage a suitable environment for family life. The keeping and flying of pigeons may create a nuisance for the surrounding residential properties and not be in harmony with the type of living environment homeowner's desire.

HOMING PIGEONS

PERCEPTION vs. REALITY

FROM THE
AVIAN ASSISTANCE COUNCIL
AND THE
**AMERICAN RACING
PIGEON UNION, INC.**





HISTORY

Modern pigeon racing had its beginning in the early 1800's in Belgium. However, man has long used pigeons as pets, as a source of food and as message carriers possibly as far back in time as 5,000 years ago.

Neolithic man began taming animals around 8,000 years ago. The pigeon, a seed eater, would have been relatively easy to domesticate. Certainly, as man began to grow grains, the pigeon is a species that would have naturally gravitated around human settlements and farms.

At the height of the Moorish Empire, the Arabs used pigeons as messengers. In the Dark Ages and in Medieval times, from Baghdad in the Middle East to the Barbary Coast in North Africa, Arab officialdom employed carrier pigeons. Genghis Kahn also reputedly made use of pigeons as his empire expanded.

Carrier pigeons were a major component in the expansion of the industrial revolution. Reuters News Agency was begun with homing pigeons. The symbol for many European postal systems is a stylized figure of a "carrier (homing)" pigeon, to this day.

Pigeon racing in Belgium probably began with the use of Persian messenger pigeons as the foundation stock. Crossed with local pigeons, the modern racing homer gradually developed into what we know it as today. That development continues unabated.

The first known long distance pigeon race was in Belgium in 1818. In 1820 a race was flown from Paris to Liege, and in 1823 from London to Antwerp. By 1870 there were 150 racing societies in Belgium and over 10,000 lofts. Neighboring Holland became fascinated with the hobby and wholeheartedly joined in. After 1875 the hobby of pigeon racing gained popularity in England. Today there are approximately 90,000 lofts each in both Belgium and Holland while there are some 100,000 lofts in England.

The hobby was introduced to the United States in the late nineteenth century. It also gained a foothold in parts of France. It is now becoming popular in Japan, Taiwan, Canada, Australia, South Africa and mainland China. There are fliers in India, Argentina and Hungary. However, the birthplace of the sport as we know it, Belgium, remains the center of the fancy.

At present, there are approximately 15,000 registered racing pigeon lofts in America. In the past five years interest in pigeon racing in this country has been growing. It is thought that this is mainly due to the popularity and escalating number of young bird futurities. This hobby has developed into a wholesome backyard sport in which the entire family can participate. The American tendency toward enterprise and competition is nicely met by this trend in the hobby.

With the recent creation of The Pigeon Center and The International Institute of Pigeons and Doves in Oklahoma City, the sport is entering a new phase. The American Racing Pigeon Union, (AU) the leading organization of fliers, has joined with the Canadian Racing Pigeon Union, International Federation of American Homing Pigeon Fanciers, Inc., and the National Pigeon Association in what will eventually become a federation of the sport.

COMPARISON OF RACING PIGEONS WITH OTHER BIRDS

Many local governmental officials mistakenly believe that registered racing pigeons are the same birds as the wild pigeons which overpopulate town squares, public buildings and parks; they are not. In fact, registered racing pigeons are kept and revered like birds of all kinds, such as parakeets, parrots, cockatiels, macaws, doves, hawks and falcons.

Registered racing pigeons are admired by fanciers for their superb athleticism, determination, and loyalty to their home lofts and owners. Because they are expected to race home from distances up to 600 miles in a day, racing pigeons must be in perfect health, well fed and cared for daily.

Registered racing pigeon fanciers are expected to meet higher standards than those set for the maintenance and care of other birds. The registered racing pigeon is an athlete. Racing pigeons compare favorably with all other birds kept by the American public. Considering cage birds and birds of prey (hawks and falcons) kept for falconry and propagation, racing pigeons meet and exceed most of the same legal and general maintenance requirements:

1. Registered racing pigeons are banded as very young birds to permanently register them and mark them for record keeping and racing purposes, as are cage and falconry birds.
2. Racing pigeon fanciers follow strict medical regimens to ensure health and to prevent disease. Falconers and other bird fanciers attempt to emulate racing pigeon fanciers' standards for health excellence. Presently, there are a number of veterinarians in the U.S. whose singular specialty is racing pigeon medical treatment.
3. Falconry birds are maintained in housing based on standards set by federal and state law and regulations. Cage birds are normally housed indoors, except for certain kinds of doves and fancy show pigeons which, like racing pigeons, are kept outside. Virtually all racing pigeon lofts are built to standards equal to those for falconry and cage birds. The AU has set minimum standards for lofts and their construction and maintaining birds' facilities.
4. The United States Post Office recognizes the importance of racing pigeons by providing optimum standards for shipment in special boxes and under humane conditions. Cage and falconry birds are not even accepted by the Postal Service for shipment.
5. Most airlines will accept equally racing pigeons, cage birds, and falconry birds. The International Air Transport Association sets specific airline standards for the shipment of each kind of bird. Like the others, racing pigeons must be shipped by air in specially designed containers. In cases of international air

shipment, all birds must be accompanied by a veterinarian's health certificate.

6. When racing pigeons are imported from Europe or other countries of origin, like falcons, hawks and cage birds, they are held in quarantine. The United States Department of Agriculture officials require a health quarantine of imported birds to protect native species of wild birds and birds kept by people. Special sections for racing pigeons exist at the USDA quarantine facilities. The quarantine period for pigeons is presently thirty days.

Since racing pigeons, fancy show pigeons, cage birds of all types, and falconry birds have been kept for centuries, national officials in the United States and in almost every nation in the world recognize their importance to culture, history, education, companionship and recreation. Consequently, these officials do not distinguish among the birds as to type or use. Standards are set to assure that all birds are treated humanely. Means are provided to put all of the birds in commerce through national and international shipment.

Registered racing pigeons and their handlers take their appropriate and rightful place next to the other Americans who keep birds for companionship and recreation. Prohibitions against keeping and racing pigeons are no more justified than they are for denying the keeping of beautiful parrots and macaws, or hawks and falcons. When racing pigeon fanciers are denied their right to keep and to fly their birds in a reasonable manner, while their neighbors may keep cage birds or hawks and falcons, there arises an element of bias and discrimination. This is not justified, and most public officials recognize this when they understand the needs of racing pigeon fanciers.



NATIONAL MEDICAL CENTER AND
BECKMAN RESEARCH INSTITUTE

Where the Power of Knowledge Saves Lives™

July 1, 2002

Ms. Ramona Portillo
Community Preservation Office
777 "B" Street
Hayward, California 94541

Re: Mr. Luis Rayas
25191 Kay Avenue
Hayward, California 94545

Dear Ms. Portillo:

I am writing to you on behalf of Luis Rayas to support the housing and training of racing pigeons within the community of Hayward. Since pigeon racing is a relatively new practice in the United States, especially when compared to Europe, little is known about this sport.

Pigeons are related to the dove family. Over the millennia, homing pigeons have been friends and helpers of mankind. While their role in delivering messages has been eclipsed by our electronic communication age, their value to man nevertheless continues. Each pigeon flyer is registered with the federal government to be available for national emergencies. Birds are still employed in remote areas to fly blood samples and messages.

These birds are not noisy: they "coo" at a noise level far lower than that of a nearby barking dog and are quiet at night. Pigeon fanciers maintain a clean environment for their birds. Special flooring prevents birds from standing in their own droppings. They rarely defecate when flying because they fly on an empty stomach (thus prompting a greater incentive to fly home).

These birds are trained, fed and cared for in the most humane and hygienic conditions. At the City of Hope National Medical Center, we kept a loft for many years. These birds posed no risk to our patients who are often vulnerable to outside viruses.

We can make arrangements for you to view a very informative and interesting video on pigeon racing narrated by the late Michael Landon, who himself was a racing enthusiast. This film provides tremendous insight into the dedication and love these racers have for their birds and their sport.

2151 Michelson Drive, Suite 275, Irvine, CA 92612
Tel 949-622-1900 800-235-0579 Fax 949-622-1910
www.cityofhope.org

July 1, 2002

Page 2

The purpose of this letter is to emphasize that with the passage of the Harvey Bill, AB 3109-1990, a copy of which is enclosed, such a pastime is not only protected by law, but indirectly aids the humanitarian cause of the City of Hope.

City of Hope is one of only 40 National Cancer Institute designated **comprehensive cancer** centers. The City of Hope supports its National Medical Center and the Beckman Research Institute. It is dedicated to the service of humanity through pioneering programs in patient care, research and education in the major diseases of our time, such as cancer, diabetes and AIDS.

How does this sport assist in the work of the City of Hope? City of Hope's annual budget needs are in excess of \$350 million. A large percentage of such major funding comes from the City of Hope's annual program of special events. Over a ten year period, California Racing Pigeon Clubs have raised over \$500,000 for City of Hope through the "Fly for Hope" program.

Encouraging the residents of Hayward to consider the pleasant pastime and sport of pigeon racing will indirectly serve the efforts of City of Hope. As a wholesome sport which attracts community participation, including the youth, a positive action would enhance the community as well as the City of Hope. For all of these reasons I hope that you will consider favorably the advocacy of this amazing and wonderful sport.

Sincerely,

Joanne Ling
City of Hope
Fly for Hope Director

Enclosure: AB 3109-1990

JL/tlt

Assembly Bill No. 3109

CHAPTER 329

An act to add Section 65852.6 to the Government Code, relating to birds.

[Approved by Governor July 17, 1990. Filed with
Secretary of State July 17, 1990.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3109, Harvey. Pigeons.

Under existing law, local government may regulate land use within its jurisdiction for various specified purposes.

This bill would provide that it is the policy of the state to permit the breeding and maintaining of homing pigeons consistent with the preservation of public health and safety and would distinguish them from fowl.

The people of the State of California do enact as follows:

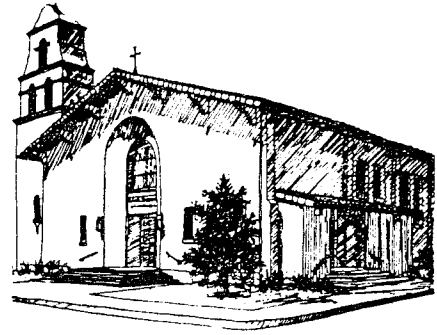
SECTION 1. Section 65852.6 is added to the Government Code, to read:

65852.6. (a) It is the policy of the state to permit breeding and the maintaining of homing pigeons consistent with the preservation of public health and safety.

(b) For purposes of this section a "homing pigeon," sometimes referred to as a racing pigeon is a bird of the order Columbidae. It does not fall in the category of "fowl" which includes chickens, turkeys, ducks, geese and other domesticated birds other than pigeons.

Parish of St. Joachim

21250 HESPERIAN BLVD. • HAYWARD, CALIFORNIA 94541
(510) 783-2766



July 16, 2002

Ms. Ramona Portillo
Community Preservation Office
777 B Street
Hayward, CA 94541

Dear Ms. Portillo,

This is to inform you that Mr. Rayas is a parishioner at Saint Joachim Church and as a member of this Parish he has made his homing pigeons available on various occasions. We have used the pigeons for school graduations and weddings. The pigeons are released at the end of the ceremony as symbols of a new beginning and spiritual growth.

His pigeons have also been used as an educational tool for the students of our school. Mr. Rayas has taught students the difference between homing pigeons and street pigeons. He has also taught them the proper way of holding and caring for them. Whenever the pigeons have been made available to us, the pigeons appear well kept, clean and free of parasites.

Please feel free to contact me if you have any questions regarding this.

Sincerely,

Fr. Sergio Mora

Father Sergio Mora
Pastor
(510) 783-2766

AMERICAN RACING PIGEON UNION, INC.

President

ANTHONY SORRENTINO
251 Summer Road
Neshanic Station, NJ 08853
(908) 806-8021

Executive Vice-President

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2868 River Road
Melrose, NY 12121
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Constitution, By-Laws Advisor

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Executive Director

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P.O. BOX 18465 OKLAHOMA CITY, OK 73154-0465 PH. 405-848-5801
FAX 405-848-5888

July 2, 2002

Ms. Ramona Portillo
Community Preservation Office
777 B Street
Hayward, CA 94541

Dear Ms. Portillo:

This will confirm that Mr. Luis Rayas is a member in good standing with the American Racing Pigeon Union, Inc. (AU). The AU is a membership organization comprised of nearly 10,000 members across the United States.

As such, Mr. Rayas, not only enjoys benefits and awards from the AU, but also is required to maintain a healthy loft and provide exceptional care for his pedigreed Homing Pigeons. Mr. Rayas observes these requirements and is a member in good standing.

We are hopeful that you will review the materials he presents and reconsider his privilege to maintain the birds. Please review the booklet, *Homing Pigeons: Perception vs. Reality*. Pigeons are clearly not considered poultry or fowl. We think you will find the model ordinance in the back of the book as a manageable solution.

The hobby of raising and racing Homing Pigeons is one that is enjoyed by hundreds of youth throughout America. Our goal is not only to enhance the hobby for adult fanciers, but to preserve the hobby for our future - our youth.

Please feel free to call on us if we might be of service or provide additional information.

Thank you for your assistance and careful consideration.

Sincerely,


Karen Clifton
Executive Director

/k



FACT SHEET



FASCINATING...

- In the mid 1800's, the **Reuters News Agency** operated a live telex service using Homing Pigeons.
- There are nearly **1 million** pigeon fliers around the world today.
- The ancient Greeks used Homing Pigeons to carry messages 5,000 years ago.
- **Homing Pigeons race from 80 to 600 miles at speeds of 40 to 60 mph** over terrain they have often never seen before.
- Homing Pigeons were used extensively as a highly reliable method of communication in military conflicts during the two World Wars and the Korean War. They **saved thousands of lives** while in military service.
- Homing Pigeons were introduced to the United States in the mid 1800's. In the 1880's, the first 500-mile race took place in this country.
- Some international races award large cash prizes. **In the United States, most races are held for good, clean family fun.**

FAMOUS FANCIERS:

Walt Disney began releasing a flock of white Homing Pigeons as part of daily ceremonies at Disneyland and Disney World. The tradition continues today.

Terry Bradshaw, former Pittsburgh Steelers' Quarterback, breeds pigeons.

Ray Price, country singer, enjoys breeding Homing Pigeons.

Actors **Yul Brynner** and **Roy Rogers** raised pigeons.

Pablo Picasso, who also raised Homing Pigeons, named his daughter "Paloma", Spanish for dove.

Boxing champion, **George Foreman**, maintains a loft and breeds Homing Pigeons.

Actress **Joanne Woodward** raised fancy breeds of pigeons.

Maurizo Gucci is a fancier of show pigeons who is on record for paying more than \$10,000 for an American bird.

The British Royal Family has raised Homing Pigeons for centuries, and has an active racing loft yet today.

DID YOU KNOW...

- A combination of an extremely accurate internal "sunclock" and magnetic fields enable the athletes to return home.
- The ability to hear sounds 11 octaves below middle C allow the pigeons to detect **earthquakes and electrical storms.**
- The top national race, *Snowbird Classic*, awards a purse of **\$600,000.**
- The **highest priced Homing Pigeon was sold for \$225,000.**
- Homing Pigeons have pedigrees like racehorses. They are bred and trained with the same care bestowed upon their equine counterparts.

ABOUT THE "AU"

The American Racing Pigeon Union was founded in 1910 and is the largest pigeon association in the country. The AU sets race rules and provides members a code of conduct, as well as funds veterinary and scientific research to enhance the sport and assist its members.

For more information on how to join the nearly 10,000 American Racing Pigeon Union members across the United States, call 405-848-5801 or fax 405-848-5888.

Or write:

American Racing Pigeon Union, Inc.
P.O. Box 18465
Oklahoma City, Oklahoma 73154-0465

Visit our website: www.pigeon.org

Join the Sport of Pigeon Racing Today!



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Bogue, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Zermeno, McKillop, Sacks, Caveglia, Halliday, Thnay
CHAIRPERSON Bogue
Absent: COMMISSIONER None

Staff Members Present: Conneeley, Emura, Looney, Patenaude, Weisbrod

General Public Present: Approximately 35

PUBLIC COMMENT

AGENDA

1. Administrative Use Permit Application No. PL-2002-0440 – Jose L. and Olivia Rayas (Applicants/Owners) – Request to Keep and Fly Pigeons – The Property is Located at 25191 Kay Avenue in a RS (Single-Family Residential) District
2. Appeal of the Planning Director's Approval of Site Plan Review No. PL-2002-0358 – Dr. Ramon Reynoso (Appellant), Wade Rudnick – AT&T Wireless (Applicant), Willy Lim (Owner) – Request to Allow an Addition of Three Antennas and an Equipment Cabinet to an Existing Wireless Facility Site – The Property is Located at 586 West Tennyson Road in a CN (Neighborhood Commercial) District

PUBLIC HEARINGS

1. Administrative Use Permit Application No. PL-2002-0440 – Jose L. and Olivia Rayas (Applicants/Owners) – Request to Keep and Fly Pigeons – The Property is Located at 25191 Kay Avenue in a RS (Single-Family Residential) District

Consulting Project Planner Weisbrod described the area in which the applicant lives. He commented that it is a single-family residential district with a single-story, three-bedroom home on the property. The pigeon loft is located in the rear yard and is in compliance with the setback requirements for the Zoning Ordinance. It is small enough to be exempt from a building permit and appears very well maintained. The applicant has been raising and racing homing pigeons at this location for 10 years. Recently, Community Preservation staff received a complaint regarding this use. In order to keep pigeons, approval of an Administrative Use Permit would be required. He noted that staff had received two phone calls protesting the pigeons. The Southgate Homeowner's Association has gone on record opposing the

application. Staff cannot recommend approval of the permit unless the pigeons are kept in the loft at all times.

Commissioner Halliday asked about the legal definition of livestock and why homing pigeons are considered livestock.

Consulting Project Planner Weisbrod noted that the law specifically mentions pigeons as small livestock.

The public hearing was opened at 7:44 p.m.

Olivia Rayas, applicant, noted that the family cleans the pigeon loft once a day. She noted that they are let out in the morning, and then maintained inside the loft all day. She added that homing pigeons are thoroughbreds. The bands on the birds are registered with the American Racing Pigeon Association Club. From April to June, they are in competition, at which point about half the birds are let out twice a day. She commented that this is a sport in which all of their family takes a part. Because of these activities, they do not have time to participate in unlawful activities. She has had the homing pigeons for 10 years and explained why there is no public threat of or risk to humans. She noted the various diseases carried by other animals but not pigeons. She added that they are registered with the Civil Defense System and can be used in emergencies.

Commissioner Thnay asked why 100 pigeons.

Mrs. Rayas said that during flight they lose pigeons due to predators in the area. When they are let out, only half go at one time and the other half is used for breeding.

Commissioner Caveglia asked again why so many.

Mrs. Rayas stated they are used for both breeding and flying. They might have a total of thirty birds in a race at one time.

Commissioner Caveglia then asked staff about the Assembly Bill 3109, Chapter 329, and whether it might not limit the Commission's action.

Assistant City Attorney Conneeley explained that the law gives the City great latitude when determining public health, for example.

Commissioner Zermeño asked whether there were any other types of birds in the area.

Mrs. Rayas explained that there were a great number of other birds in the neighborhood from which droppings could come.

Commissioner Sacks complimented her on the presentation. She asked whether members of the organization all have their own pigeons.

Mrs. Rayas said they did and that there are 35 members in the Hayward Club.



Karen Clifton from the American Racing Pigeon Association commented that if birds were not well maintained, they would not do well in competition. One reason to have so many is so the owners can alternate the race participants. She added that the birds are vaccinated. She brought and showed a video from the Association.

Tim Perry, Pacific Zone director for the ARPA, discussed various ordinances in other Cities allowing homing pigeons.

Erica Reyes read a letter from another bird flyer, who expressed gratitude for the useful service of the birds in World War II.

Donald Rodriguez, Alameda, a 10-year member of the Hayward Homing Pigeon Club, explained that not all the members live in Hayward. He said hundred's of people keep pigeons in the area. He commented that for the policy to allow these birds, refer to the State law. He noted that in the opinion of the County Health Officer, this family is committed to keeping their property clean. He emphasized that the number of other birds in the area are the cause of bird droppings around the neighborhood. These birds are usually silent at night and make very little noise during the day. He said these birds are less an impingement on the neighbors than a large dog might be.

Matthew Delaine, a younger member of the homing pigeons club, said they are great fun. He said he takes responsibility for his own.

Anita and Carlos Perez, said they own the property next door to the Rayas and filed the complaint. Mrs. Perez said they were presenting the issues in the neighborhood. This number of pigeons does not belong in the neighborhood. These birds do land on the lines and roofs as well and that there is a lot of noise with the cleaning. She maintained that these birds do land on other peoples' properties, and corrode materials, etc. She mentioned other noise factors, which are annoying. She noted that they do not fly just once a day and wondered how you would keep the birds from eating before flight. She asked if it is just a pigeon issue, what about if people decided to start breeding rabbits and snakes. She stated that this is in a neighborhood where it does not belong. She added that she appreciated the South Gate Home Owner's Association agreeing this does not belong in their neighborhood.

Carlos Perez discussed the amount of droppings in the yard and on the cars. He added that this is a residential area, not a business or commercial district. Acid from the droppings does damage paint, and is unsanitary.

Commissioner Caveglia asked the Rayas, where the droppings go, from their cage cleaning.

Mrs. Rayas said they go into the garbage.

Commissioner Zermeño asked whether the droppings could be used for fertilizer.

Mrs. Rayas said some people have asked them for them, so occasionally they will give it away.

Commissioner Sacks asked about the use of the whistle.

Mrs. Rayas said they have foregone the use of the whistle and now clap to bring the birds back to the loft.

Commissioner Sacks asked about the number of pigeons on the wires near their home and said she assumed those pigeons on the wires are wild.

Mrs. Rayas agreed they must be.

Commissioner Caveglia said he was impressed with the number of people who supported allowing the pigeons to remain, both in the audience and on the petition.

Commissioner Halliday discussed the scraping noise of cleaning the cages and said she lives about a block away from the Rayas family, although she was allowed to vote. She commented that she did visit the applicant and see the pigeons fly off. She said while at their home, she saw the cleaning and the length of time for the scraping.

Mrs. Rayas said it takes approximately 15-20 minutes to clean the loft, once a day. She added that they would be willing to negotiate a time with the neighbors.

Commissioner Thnay asked Commissioner Halliday whether she sees the birds in the neighborhood.

Commissioner Halliday commented that she saw them flying around on her visit to the applicant, and probably had seen them before. However, she noted they have a large number of birds in that area.

Commissioner McKillop confirmed that the flying process takes about an hour.

Commissioner Zermeño clarified that no stray birds come to their home.

Mrs. Rayas noted that their birds are all banded.

The public hearing closed at 8:38 p.m.

Commissioner Halliday said she appreciated learning something new. She added that she usually would see lots of pigeons everyday so it was interesting to learn about this. Although this is an urban environment, there is much concern about individuals and living together in harmony. She commented that she was also impressed with the number of signatures on the petition, and noted that this neighborhood already has lots of birds and lots of droppings. This is a very well kept property. She noted that she would like to think we could learn to live together. She said she was particularly impressed with the children involved and attending the



meeting. She commented that she appreciates that there are differences in an urban setting. As to the concern regarding any health issues, she said there was not enough reason to deny the application. She then moved, seconded by Commissioner Zermeno, to approve the application, and ask staff to bring back findings and conditions to support this motion.

Commissioner Caveglia said his question was why the neighborhood association voted to deny the application.

Consulting Project Planner Weisbrod said he had received an email from the president on behalf of the Association regarding their concern that pigeons carry disease, lice and leave droppings.

Chairperson Bogue said he attended the South Gate Homeowners Association meeting and it was approved unanimously to send the letter explaining that this was not an appropriate use in the neighborhood. He said there are six Board members, and they all agreed to ask for a denial.

Commissioner Halliday commented that Roy Gordon, a member of the Board, was the person who called her and asked her to go over to the applicant's home. She commented that he was also a signatory on the petition in support of the Rayas as well.

Commissioner Caveglia noted that in 10-years no one really knew the homing pigeons were there. He added that the neighbors don't seem bothered by it, so he saw no reason not to agree with the motion.

Chairperson Bogue clarified that Mr. Gordon voted in support of sending the letter since he was one of the six people voting with the Board.

Commissioner Thnay said he would go along with what is being said. He thought trained pigeons could not be as bad as dogs, with which he would have more of an issue. He noted that one of the homing pigeon supporters said that other cities have crafted ordinances. He then suggested that perhaps staff should look at these other ordinances. He suggested that both staff and members need to come up with things to protect the rights of the individuals in a neighborhood.

Commissioner Zermeno agreed that looking at an ordinance is a good idea. He said he would favor the motion. He said he also was impressed with the involvement of so many young people in the community and suggested this might be a good way to get along with their neighbors.

Commissioner McKillop commented that the presentations were wonderful, and that it was good to see so many children involved and attending the meeting. She said it would be hard not to find that this is desirable for the public welfare.

Commissioner Sacks added her thanks for the presentation. She said this had been a wonderful learning experience. She added that she would support this motion, although normally, she would have an inherent problem with approving things that are not technically correct. She added that there are no health concerns.

Chairperson Bogue said he would be voting against the motion. He noted that the Homeowners Association agreed that there were problems with pigeons, and that many of the neighbors have been suffering in silence. He did not find that this application was appropriate.

Commissioner Thnay asked for staff to come back with recommendations as to what is the threshold for an acceptable number of pigeons. Findings on this should be brought back to the Commission at a later date.

Commissioner Halliday said she had thought about the comment that this might be setting a precedent for all sorts of breeders. However, she reminded members that each would require applying for a use permit and having a public hearing. So, she added, the City of Hayward does have a mechanism to keep it from getting out of hand.

The motion passed 6:1, with Chairperson Bogue voting "No."

2. Appeal of the Planning Director's Approval of Site Plan Review No. PL-2002-0358 - Dr. Ramon Reynoso (Appellant), Wade Rudnick - AT&T Wireless (Applicant), Willy Lim (Owner) - Request to Allow an Addition of Three Antennas and an Equipment Cabinet to an Existing Wireless Facility Site - The Property is Located at 586 West Tennyson Road in a CN (Neighborhood Commercial) District

Associate Planner Emura described the existing antennas and the replacement proposal. He said the appeal was based on noise and radio waves danger. He noted that Cingular Wireless has obtained an administrative use permit for the property. AT&T is willing to relocate the new cabinet outside of the patio area. He added that staff was proposing new conditions to include requiring the new cabinet equipment outside of the patio area, and location of the new equipment be approved by the Planning Director.

Principal Planner Patenaude suggested that it would probably be the most logical to locate the new AT&T cabinet next to the Cingular Wireless cabinet.

Commissioner Sacks asked for further information regarding the surrounding property.

Associate Planner Emura said it is to become residential-commercial development on the left.

Commissioner Zermeño asked where the AT&T antenna and the equipment were to be placed.

Associate Planner Emura said outside the patio area. As of yet, no location has been proposed to staff. He added that AT&T would like to keep the existing cabinet in the patio area.

Principal Planner Patenaude indicated that it would make sense to keep them all together.



Chairperson Bogue asked whether they would replace the old antennas.

Associate Planner Emura said they would keep existing equipment cabinets in the patio area and remove the existing antennas.

The public hearing was opened at 9:06 p.m.

Ramon Reynoso the appellant said the issue is to have this cabinet removed and placed to the back. He said he has been at this location 13 years and the noise level from the cabinet makes it impossible to keep his windows open. He added that a number of the tenants have already moved although he could not say it was because of the noise from the units. He indicated that it is like having an air conditioner next to his desk. He proposed having all of the equipment cabinets placed in the back. He said his appeal was to ask to have them all removed and placed in the back, outside the patio.

Commissioner Sacks confirmed that he had been a tenant at this location for 13 years and asked whether he had been notified of the application.

Associate Planner Emura said staff had sent only one card for the three tenants, and the initial public notice went to another tenant. The second public notice went to Mr. Reynoso.

Robert McCarthy, for ATT, said they have indicated that they have no objection to the second equipment cabinet being relocated; there should be no impact on cell service. Relocating the wireless facility to Cingular's redwood trees is prohibitive. He noted that for them to have to pay the expense of sharing the Redwood tree would be expensive. He added that the antennas are part of an integrated system. They need a certain height not to bleed into another section. He noted that they use a residential air-conditioning unit to cool the system but have made note of the complaint and added a baffle to the unit to make less noise. He noted that the cabinets have very expensive equipment in them so they would like the cabinets inside of the patio.

Commissioner Caveglia commented that these antenna seem lower than those in previous applications.

Mr. McCarthy described the antennas as built to be directional to the horizon. He then went into great detail as to how the antennas function.

Chairperson Bogue commented that the building is low so Mr. Reynoso is close to the antennas when he is in his space. He asked whether there is any shielding from the rays.

Bill Hammond, engineer for AT&T described the measurements of exposure. He commented that shielding would have very little effect, since the antennas are directional.

The public hearing closed at 9:29 p.m.

Commissioner Zermeño moved the staff recommendation to approve the findings, deny the appeal and move the existing and new cabinet outside. The motion died for lack of a second.

Commissioner Sacks asked for a clarification as to what staff was recommending for the additional conditions.

Associate Planner clarified that staff wanted the addition of a modification with the new cabinet outside the patio with the other equipment.

Commissioner Sacks commented that graffiti could create a problem and the cabinet could be an attractive nuisance. She said she tended to be in favor of recommendation as written and received. She then moved, seconded by Commissioner Halliday, to find the proposed project categorically exempt from CEQA, and deny the appeal and approve the Site Plan Review application, subject to the original findings and conditions. as written.

Commissioner Sacks clarified that this cabinet would then be combined with the existing cabinet and as originally presented to the Commission, without the subsequent staff recommendations.

Commissioner Thnay asked for further clarification whether the motion included staff's recommendation to move the cabinets to the same location.

Commissioner Sacks said she preferred the new cabinet to be with the existing cabinet subject to the original report and conditions. She said she was asking to take the Cingular application out of the whole equation. Just separate the two. She added that this project would have the new equipment cabinet placed inside the patio area next the original equipment.

Commissioner Zermeño asked whether the cabinets could be placed on the roof.

Principal Planner Patenaude said they could be, but it would add substantial costs to the project. He indicated again that staff was proposing to consolidate the equipment rather than spread them out.

Commissioner Zermeño said he would vote against the motion.

Chairperson Bogue noted that by placing the antennas on the roof, they would not be totally screened.

Principal Planner Patenaude agreed that the parapet does not extend around the building to add coverage.

Commissioner Thnay suggested there was a reason to combine the new cabinet with the other since the advantage would be in not adding more noise to the building. Balance the issue, combining and co-locating is a good thing.



Commissioner Sacks said the equity issue is equally important. One of the companies should not be paying for the other company.

The motion carried by the following vote:

AYES:	COMMISSIONERS Halliday, Sacks, Zermeño
	CHAIRPERSON Bogue
NOES:	COMMISSIONER Thnay, Caveglia, McKillop
ABSENT:	None
ABSTAIN:	None

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Principal Planner Patenaude informed members of the time and place of the upcoming holiday dinner.

4. Commissioners' Announcements, Referrals

Commissioner Sacks discussed art in the downtown renewal area, and commented on various projects she has visited, including those in downtown Oakland and Santa Clara. She suggested the need to be more aware of what other cities are doing with the concept of downtown housing. She then asked how the "lofts" project was going.

Principal Planner Patenaude responded that the project had been sold to a new developer.

Commissioner McKillop asked for consideration of directional markings on the maps received with reports.

Commissioner Caveglia asked, once again, if any further information was available regarding Hutch's Car Wash and the huge service tent on the property.

Principal Planner Patenaude said, he thought Planning Manager Anderly had been checking into this issue but he did not know the outcome.

Commissioner Halliday followed up on Commissioner McKillop's request to ask whether major streets might also be added to the maps and reports. She noted a news article in the SF Chronicle dealing with "Smart Growth," and commented that voters seem to be more supportive of higher density projects.

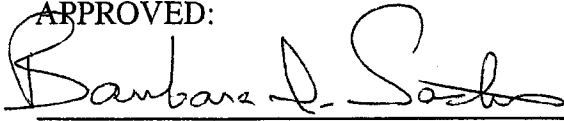
APPROVAL OF MINUTES

- October 10, 2002 - Approved
- October 17, 2002 - Approved

ADJOURNMENT

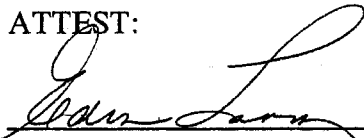
The meeting was adjourned by Chairperson Bogue at 9:53 P.M.

APPROVED:



Barbara Sacks, Secretary
Planning Commission

ATTEST:



Edith Looney
Commission Secretary